

COUNCIL PROCEEDINGS

CITY OF VIRGINIA, MINNESOTA, NOVEMBER 20, 2012

A Special Meeting of the City Council of the City of Virginia, Minnesota, was called to order by Acting Mayor Cuffe at 6:30 P.M. in the Council Chambers, City Hall.

Roll Call:

Present: Councillors Littlewolf, Ralston, Baribeau, Sipola, Russo, Acting Mayor Cuffe – 6

Absent: None

Acting Mayor Cuffe opened the meeting and stated the purpose of the meeting was to discuss the vacant Mayor position. According to the City Charter, the City Council must appoint someone to the vacant Mayor position within thirty days of declaring the vacancy. The vacant Mayor position was declared vacant on October 23, 2012.

City Attorney Butorac stated he has not received an opinion from the Attorney General on whether the City Council can, or must, hold a special election to fill the vacant Mayor position.

Councillor Ralston stated the appointment would be made tonight on an interim basis until an opinion is obtained from the Attorney General and the appointment would be for a term until the next regular election, or special election.

Councillor Littlewolf asked Acting Mayor Cuffe if he was interested in retaining the Mayor position through the end of the year. Acting Mayor Cuffe respectfully declined the position, as he would have to vacate his City Council seat if he was appointed Mayor. Councillor Littlewolf stated there was a tabling motion to hold off on the public application process last week. Councillor Littlewolf stated she was curious as to why Councillor Russo would seek the Mayor position after choosing to not run for reelection. She also questioned if Councillor Russo would want to continue in the Mayor position until the next regular City election in 2014. Councillor Littlewolf stated she does not have concerns in working with Russo as Mayor, but does have a problem that the Council did not identify an open, public process and follow it, as members of the community are interested. Councillor Littlewolf stated she respects Councillor Russo, but feels the vast majority of the community supports a special election and public process for the Mayor position.

Councillor Baribeau stated the City Charter says a vacancy shall be appointed and, if the Council does not recognize the word “shall”, there is a possibility that a citizen could sue the City Council. Councillor Baribeau stated he obtained a legal opinion on the issue. He also stated the City Charter does not say a special election could be held to fill a vacancy. Councillor Baribeau noted he has a fiduciary responsibility to the taxpayers and cannot see spending up to \$32,000 for special elections.

Councillor Baribeau stated he is favorable to appointing Councillor Russo to the Mayor position until the 2014 City election and would also be willing to appoint Carl Baranzelli to fill Councillor Russo's vacant Council position for the remainder of 2012. Carl Baranzelli stated he would be willing, and appreciative, of the head start to fill the vacant seat created by Councillor Russo's appointment to the Mayor position.

Acting Mayor Cuffe stated the City Council directed the City Attorney to send a letter to the Attorney General's office to get a determination and clarification with respect to the State Statute and City Charter. According to State Statute, if a position is open for more than two years, a special election must be held for statutory cities. Virginia is a Charter City, with a charter that states the Council shall appoint a person to fill a vacancy. As an opinion has not been received from the Attorney General, Acting Mayor Cuffe stated the Council must take action today to fill the Mayor position beyond the thirty day term that the Vice Mayor could serve.

Councillor Sipola stated he was elected to uphold the constitution, which is the City Charter, and the Charter says the City Council shall make an appointment to fill a vacant position. The City Charter does not allow the City Council to appoint an interim Mayor for six weeks and then remove that person from office. If the Attorney General gives an opinion that the City may hold a special election, and the City Council votes to hold one, the Mayor would lose his job when the newly elected person takes office.

City Attorney Butorac stated the City Council must appoint someone to the Mayor position tonight, for the unexpired term ending December 31, 2014, unless the Attorney General determines the City must hold a special election.

Councillor Sipola also noted that the person appointed to the Mayor position could be recalled, per the City Charter. The appointment made today would be for an unknown term, which could be up to the full term of two years and one month. Councillor Sipola stated he has spoken with Councillor Russo and he is willing to serve as Mayor up to a maximum term of two years and is not interested in running for election in two years or in a special election. Councillor Sipola also noted that Mr. Russo does not believe the Mayor should hold a committee chair position. Councillor Sipola stated Louis Russo is an excellent candidate for the Mayor position and the public has elected him to a public office to represent the City of Virginia, as opposed to a civilian in the community.

Moved by Baribeau and supported by Ralston to waive the requirement for a written resolution for the following motion.

Ayes: Councillors Ralston, Baribeau, Sipola, Russo, Acting Mayor Cuffe – 5

Nays: Councillor Littlewolf - 1

Motion carried.

Moved by Sipola and supported by Ralston to adopt Resolution No. 12205, appointing Louis Russo to the vacant Mayor position, effective November 26, 2012, and for a term until the next special or general City election

Ayes: Councillors Ralston, Baribeau, Sipola, Russo, Acting Mayor Cuffe – 5

Nays: Councillor Littlewolf - 1

Resolution adopted.

Councillor Ralston noted that the appointment to the Mayor position does not eliminate the possibility of holding a special election.

Councillor Littlewolf stated she could not support the motion as she felt the vacant Mayor position should be open to a public process, as the majority of the community members would like to see an election.

Acting Mayor Cuffe stated he felt this is a critical time in our City, with the budget and truth in taxation, and Councillor Russo is willing to assume the duties and responsibilities of the Mayor position. Acting Mayor Cuffe felt a fair and democrat process is being held and the decision must be made, based on the best interest of the City.

Moved by Baribeau and supported by Sipola to waive the requirement for a written resolution to fill the Councillor Russo's vacated City Council seat.

City Attorney Butorac stated Councillor Russo must resign from his City Council seat, prior to the City Council taking action to fill the vacant seat, and recommended that the action be taken at the November 27, 2012, meeting.

Councillor Baribeau rescinded the motion and Councillor Sipola rescinded the support on the previous motion.

City Attorney Butorac stated Mayor Russo and Councillor Baranzelli should be sworn in at the November 27th City Council meeting.

Meeting adjourned at 7:00 P.M.

LARRY CUFFE

Acting Mayor

(CORPORATE SEAL)

LOIS ROSKOSKI

City Clerk