

Special Council Meeting

September 6, 2023

A duly warned meeting of the Newport City Council was held on Wednesday, September 6, 2023, in the council room in the Newport Municipal Building. Present were Mayor Linda Joy Sullivan, Council President John Wilson, Council members Kevin Charboneau, Chris Vachon and Clark Curtis, City Clerk/Treasurer James Johnson, Public Works Director Tom Bernier, members of the Press and Public.

Mayor Sullivan called the meeting to order at 6:30 PM.

Additions, Changes, and Deletions to the Agenda

Addition, Mayor Sullivan requested a motion to consider extending the deadline for applications for the position of City Manager. Mr. Wilson seconded what he thought was a motion.

Mr. Vachon moved to table the request. Seconded by Mr. Charboneau, Mr. Vachon, Mr. Charboneau and Mr. Wilson in favor, Mr. Curtis Against, motion carried.

Addition, Mayor Sullivan requested a motion, to see whether it's necessary for the City Council to commission a Forensic Audit of the city Water and Sewer Fund.

Mr. Wilson moved to consider whether it's necessary for the city to commission a Forensic Audit of the city's Water/ Sewer fund. Seconded by Mr. Curtis. Motion carried.

Mayor Sullivan explained what a Forensic Audit entailed.

Mr. Vachon moved to table the request. Seconded by Mr. Charboneau, motion carried.

Public Comment

Claire McIntyre read a statement. (attached)

Jennifer Bjurling read a statement. (attached)

Evaluation of City Personnel (likely executive session) 1 V.S.A. sec. 313 (a)(3)

Mr. Vachon moved to table the item. Seconded by Mr. Charboneau. Mr. Vachon and Mr. Charboneau in favor of tabling, Mr. Wilson, and Mr. Curtis against the motion. Mayor Sullivan voted yes; we will go into executive session.

Mr. Curtis moved to enter executive session for evaluation of city personnel 1 V.S.A. sec. 313(a)(313). Seconded by Mr. Wilson, Mr. Curtis and Mr. Wilson in favor, Mr. Vachon and Mr. Charboneau against. Mayor Sullivan in favor, motion carried.

Mr. Vachon left the building and did not participate in the executive session.

In open session there was no Action.

Ms. Bjurling reminded the mayor that she said there would be time for public comment after the executive session.

Public Comment

Ms. Bjurling commented on adding items to a Special Meeting agenda that called only for an executive session. This doesn't keep the public informed of what will be discussed by the council at the Special Meeting and allow for public input.

Ms. Pettersson also commented on adding items of importance to a warned Special Meeting agenda that was called for an executive session. She also asked for clarification on when public discussion was allowed for specific items as comments from the public were not allowed at the time of the motions, council discussion, and vote on the items to be added to the agenda. The mayor stated the items were tabled so there was nothing to ask or comment about

Jennifer Hopkins asked for clarification on exactly when during the process of motion, second, council discussion, and vote was the public allowed to ask questions or comment. The mayor stated that there were rules, but it was a case-by-case decision.

Adjournment

Mr. Charboneau moved to adjourn at 9:35 PM, seconded by Mr. Curtis, motion carried.

Attested James Johnson this 11th day of September 2023

Linda J. Sullivan Mayor

Newport City Council

Mayor Sullivan

Council President Wilson

Kevin Charbonneau

Clark Curtis

Chris Vachon

Karen Heraghty, Interim City Manager

James Johnson, City Clerk/Treasurer

Rebecca Therrien, Programs Director

Tabetha Armstrong / Chris Roy "Newport Daily"

Joe Gresser / Iriska Ingalls "The Chronicle"

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I am not a member of a group. I do not speak for anyone else. No one else speaks for me.

From what I observe at City Council Meetings and from press accounts, it seems that the Council is dealing with difficult matters.

I am one of many individuals concerned about Newport's welfare who is trying to understand but is unable to do so, in significant part, because the Council does not wish to provide information. In a few cases it may be under legal restrictions.

Recognizing those severe limitations I still wish to extend my sincere hope that

Council Members can each make their very best efforts to access the best versions of their abilities in dealing with the difficult matters: to listen to others, to think and consider, to appreciate another point of view, to understand, to compromise where appropriate, to explain as fully as possible whenever possible, to recognize the City's own shortcomings in the past and currently, to recognize the need for, and to begin, various processes of improvement to help the City move towards its full potential.

This same hope extends to any others involved in these difficult matters - advisers, employees, co-workers, or any

individuals supplying support to anyone
concerned.

My hope is that each individual will
be able to bring his/her/their best
self to the consideration of all matters

Thank you for this opportunity and
your attention.

Claire J. McIntyre
Claire J. McIntyre

1. Unless employee is City Manager, the Council will violate its personnel policy by conducting this evaluation: Negligence Claim

2. The evaluation of an employee without the employee at the table potentially creates liability in the form of a Due Process Claim.

New Hampshire Municipal Association

Understanding and Applying Due Process in Disciplinary Decision Making

Mark Broth

Government is in the fairness business. Public officials are charged with the evenhanded enforcement of laws, regulations, and policies.

In the employment context, due process involves two basic principles: 1) that employees are entitled to know the nature of their alleged misconduct or performance deficiencies (i.e. the charges against them); and 2) that employees should be given a reasonable opportunity to respond to those allegations.

Among the "fundamental requirement[s] of due process is the opportunity to be heard at a meaningful time." Mathews, 424 U.S. at 333 (quotation omitted).

3. The evaluation of the mystery employee may also create liability in the form of a Breach of Contract Claim should the employee the subject of an employment contract or Collective Bargaining Agreement with language pertaining to the evaluation process.

Each member of this Council took an oath of office to protect the interests of the City. Now it appears the Council will blindly move forward on an evaluation that at a minimum does

not pass the sniff test and concurrently has the potential to open the City to substantial liability

Lastly, should the Council insist upon blindly entering this legal minefield, conversation during executive session is strictly limited to the mystery employee and his or her job performance. The Council has no authority to discuss other candidates for the City Manager position. The Council has no authority to discuss alternatives to appointing a City Manager such as the Mayor usurping the City Manager role. Any discussion outside of the mystery employee and his/her job performance will be a violation of 1 VSA §313 and each of you as individuals would be criminally liable pursuant to 1 VSA §314.