



VILLAGE OF MARVIN

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VILLAGE COUNCIL MEETING MINUTES

March 18, 2019 – 5 p.m.

Village Hall, 10004 New Town Road

Special

AGENDA ITEM

TIME STAMP: 00:01

Mayor Pollino called the meeting to order at 5 p.m. Clerk verified there was a quorum present:

Council Members Present: Mayor Pollino, Mayor Pro Tem Dispenziere, Councilwoman Shkut, Councilwoman Vandenberg and Councilman Epps

Council Members Absent: No members were absent

Visitors: Bo Caudill, Attorney, Weaver, Bennett & Bland, PA

Staff Present:

Barbie Blackwell, Village Clerk
Melanie Cox, Village Attorney

TIME STAMP: 00:10

1. Adoption of the Agenda:

Mayor Pollino requested removing item #2 Discussion and Consideration of Proposed Consent Order.

Council discussed this item at length. The consent order would provide Councilwoman Shkut the same protection given to other council members during their depositions.

TIME STAMP: 9:32

ACTION-1: Mayor Pollino made a motion to remove item #2 Discussion and Consideration of Proposed Consent Order from the agenda.

VOTE: Council members Dispenziere and Vandenberg voting in the affirmative. Council Members Epps and Shkut voted in opposition. Mayor Pollino voted in the affirmative to break the tie. The motion carried with a 3-2 vote.

Time Stamp: 10:17

ACTION-2: Mayor Pollino made a motion to request that if Councilwoman Shkut wants to consult with her attorney to call for a recess.

Time Stamp: 11:05

ACTION-3: Councilman Epps made a motion that Ms. Shkut be afforded the opportunity to consult with her attorney provided that she calls for a brief recess. Councilman Epps amended his original motion for Ms. Shkut to

be afforded the opportunity to recess to consult with her attorney as needed. The motion passed with a 3-0 vote.

ACTION-4: Councilman Epps requested a call to order.

ACTION-5: Councilman Epps made a motion to adopt the agenda as presented.

ACTION-6: Councilwoman Vandenberg requested removing item #3 Consideration of Settlement Negotiation and questioned why Council was not discussing this item in closed session.

ACTION-7: Councilwoman Shkut requested a motion to speak. Mayor Pollino approved her request.

Councilwoman Shkut noted that Council admitted that it was the same agenda that she prepared. She explained items can be removed but could not be added to a special meeting agenda. The item was added in case it was needed but can be removed.

ACTION-8: Councilwoman Vandenberg made a motion to remove item #3 Consideration of Settlement Negotiation. The motion passed with a 3-0 vote.

TIME STAMP: 14:53

Councilwoman Vandenberg questioned the first statute in item # 4 Recess into closed session pursuant to NCGS §143-318.11(a)(1) to prevent the disclosure of information that is privileged or confidential. She asked the Village Attorney to explain both statutes.

Village Attorney, Ms. Cox, noted statute NCGS §143-318.11(a)(3) is used if Council wants to consult with the Attorney regarding Shkut v Village of Marvin lawsuit. The statute NCGS §143-318.11(a)(1) you have to cite the statute as to why the information is privileged. The Attorney advised Council that statute NCGS §143-318.11(a)(1) does not apply with this meeting.

ACTION-9: Councilwoman Vandenberg made a motion to remove item #4 pursuant to NCGS §143-318.11(a)(1) to prevent the disclosure of information that is privileged or confidential. The motion passed with a 4-0 vote. Council.

ACTION-10: Mayor Pro Tem Dispenziere made a motion to adopt the agenda as amended. The motion passed by majority vote of 3-1 with Councilwoman Shkut voting in opposition.

TIME STAMP: 16:31

Councilwoman Shkut requested to be recused from voting.

ACTION-11: Councilman Epps made a motion to honor the request and recuse Councilwoman Shkut from voting. The motion passed with a 3-0 vote.

TIME STAMP: 20:45

2. Recess into Closed Session, pursuant N.C.G.S. 143-318.11(a)[3] To consult with an attorney retained by the public body; regarding Shkut v. Village of Marvin of 18 CVS 1853 Shkut v. Village of Marvin et al.

ACTION-1: Councilman Epps made a motion to go into closed session pursuant to NCGS §143-318.11(a)(3) to consult with an attorney retained by the public body; regarding Shkut v. Village of Marvin 18 CVS 1853 et al Council. The motion passed with a 3-0 vote.

TIME STAMP: 00:01 (R-2)

3. Reconvene into open session for any action deemed appropriate

ACTION-1: Mayor Pro Tem Dispenziere made a motion to come out of closed session to open session. The motion passed with a 3-0 vote.

TIME STAMP: 2:39 (R-2)

Both Attorneys reviewed to terms of the settlement agreement. *(See attached: Draft Settlement Agreement and Release in the case of Shkut v. Village of Marvin 18 CVS 1853 et al is hereby incorporated as reference into these minutes).*

Council discussed the terms of the settlement in the case of Shkut v. Village of Marvin 18 CVS 1853 et al with the attorneys, Ms. Cox and Mr. Caudill, and with Councilwoman Shkut.

TIME STAMP: 10:53 (R-2)

ACTION-2: Mayor Pro Tem Dispenziere made a motion that parties will enter into a settlement agreement and release in a payment of \$75,000 contingent on dismissal of lawsuit. Mary Shkut will release the Village of Marvin, Mayor Pollino, Councilwoman Vandenberg, Councilman Epps, and Mayor Pro Tem Dispenziere in their individual and official capacity of all claims known and unknown. The Village of Marvin will release Councilwoman Shkut from all claims known and unknown. Village Attorney will review Councilwoman Shkut's legal invoices from Weaver, Bennett and Bland to determine the validity of the same and will not share the details of the bills. In the event the bills do total \$75,000 for attorney's fees excluding costs of videographers and fees for media activities in connection with 18-CVS-1853 this agreement shall be null and void. This release has no impact of the pending or legal binding on the quo warranto action. All current deadlines in the pending case are extended 60 days. No party admits or acknowledges any liability to any other party and specifically denies the existence of such liability. Neither party will seek enforcement of the gag order and mutually petition court to have gag order removed.

Discussion:

Councilwoman Vandenberg notes that she was against the settlement but glad that releases were decided. She felt that Mayor Pollino, Mayor Pro Tem Dispenziere, and herself did nothing wrong and questioned the meetings violation and the settlement fee. She takes her position very seriously and would never violate any open meetings law. She thinks the settlement is wrong.

Mayor Pollino also was against the agreement and how it was handled. Councilwoman Vandenberg, Mayor Pro Tem Dispenziere, and he did nothing wrong. He felt the meeting and the decision on the agreement was rushed.

Mayor Pro Tem Dispenziere noted it was never about guilt but putting it behind the Village and stop the expenditures of funds to fight the lawsuit. The settlement fee of \$75,000 is a fair number for what it might cost the Village in the future and would keep the Village from spending more on the case. The settlement satisfies everyone, it was the right number, and in the best interest of the Village.

Councilman Epps agreed that it was in the best interest of the Village. He noted that Councilwoman Shkut took on a battle that more people should have been behind. He applauded her for seeing what was wrong and fighting for it, but it is time to put the lawsuit to an end and move on with Village business.

Councilwoman Shkut requested to be recused from all voting.


ACTION-3: Councilwoman Shkut made a motion to be recused on all voting. The motion passed with a 3-0 vote.

VOTE: The motion passed with a vote of 2-1 with council members Dispenziere and Epps voting in the affirmative and Councilwoman Vandenberg voting in opposition.

ADJOURNMENT

ACTION: Councilwoman Vandenberg and Mayor Pro Tem Dispenziere made a motion to adjourn at 9:16 p.m. The motion passed with a 4-0 vote.

Adopted: 8.29.19



Joseph E. Pollino Jr., Mayor



Barbara R. Blackwell, NCCMC
Clerk, Village of Marvin



Parties will enter into a Settlement Agreement and Release

Payment of 75k - Contingent on Dismissal of lawsuit

Mary Shkvet will release the Village of Marin, Joe Pollino, Kim Vandenberg, Robert Epps, and Nick Dispenziere in their individual and official capacity of all claims known and unknown

Village of Marin will release MS from all claims known or unknown

Village Attorney will review Mary Shkvet's legal invoices from Weaver, Bennett & Blard to determine the validity of the same, and will not share the details of the bills. total

In the event the bills do not support the payment of 75k for attorney's fees, this agreement shall be null and void.

in connection with 18-cv-1853 excluding costs of videographers & 1853 this release has no impact or legal binding on the current quo warranto action or fees for media activities.

All current deadlines in the Privacy Case are extended 60 days

No party admits or acknowledges any liability to any other party and specifically denies the existence of such liability

- Neither party will seek enforcement of the gag order, and both will seek to have VA removed mutually petition court to have gag order removed.