



**MINUTES  
SPECIAL COUNCIL MEETING  
December 9, 2010  
7:00 P.M.**

The City Council of the City of Forest Hill met on the above date at **7:00 P.M.** with Mayor James Gosey presiding. The following Council Members and officials were present: Mayor Pro Tem Dulani Masimini, Damian Dalcour, Lyndia Thomas, Gerald Joubert, Andrew Sanders, City Manager Sheyi I. Ipaye, City Secretary Grace Edwards, Police Chief Robert Herbert, Fire Chief Ed Henderson, and City Attorney Warren Spencer.

**Opening Agenda:**

**A. Call to Order**

With a quorum present Mayor James Gosey called the meeting to order at 7:00 P.M.

**B. Invocation**

Invocation was delivered by Fire Chief Ed Henderson.

**C. Pledge of Allegiance to Flags**

Pledge to the United States and Texas flags were recited.

**D. Citizens Presentation:**

**Jimmie Sanders, 7005 Stonewall Road**-Mr. Sanders had concerns about the repeated evaluations of the City Secretary's performance. Conclusively, Mr. Sanders states that love and understanding are important qualities mentioned in the bible.

**Beckie Hayes, 7317 Woodbridge Drive**-Mrs. Hayes states that this is the time to build cohesiveness and come together as one. She encourages the City Council to do what's best for the City of Forest Hill.

**Loretta Muldrew, 3300 Valley Forge Trail**-Mrs. Muldrew had concerns regarding the fact that there were two agenda's for tonight's meeting. Mrs. Muldrew states that is a true indication that Council Members are not working together. She stated that none of the City business gets handled, because the same items are placed back on the agenda for subsequent meetings. Mrs. Muldrew suggests that anyone who does not want to work together should remove themselves from the City Council and allow someone else to serve.

**Council Member Joubert made a motion to have someone other than Mayor Gosey chairs the meeting, seconded by Thomas, which *passed* as follows:**

**Mayor Pro Tem Masimini asked Warren Spencer, City Attorney for his advice. City Attorney stated that "yes the body can request that the sitting chair can step aside and have**

a temporary chair or in the absence of a chair, and this should be done in the form of a motion and a second. Then that motion would be voted on. This would simply be to chair the meeting and not to take over any duties of the mayor. Mayor Pro Tem Masimini states that the city attorney's opinion is in conflict with what has been stated previously. Mayor Pro Tem Masimini asked to see the city attorney's opinion in writing. Warren Spencer, City Attorney says that his opinion is not coming from the charter or bylaws. Mayor Pro Tem Masimini asks the city attorney "if the mayor is not present who chairs the meeting?" City Attorney stated that, if the mayor is not present it is the will of assembly to decide who chairs the meeting. Mayor Pro Tem asks the city attorney where he is getting this opinion from. City Attorney stated that the charter is silent on this and many other issues. The charter does not address every situation. Essentially, the charter controls the structure of government not the meetings.

Council Member Sanders stated that we have looked over the prayer that was given tonight. We are not listening. We heard the prayer. We asked for guidance. We asked not to fight each other and we are doing that now. The attorney has spoken, we have a motion in place we have a second. Now let's vote.

Ayes: Mayor Pro Tem Masimini, and Council Members: Dalcour, Thomas, Joubert,

Nays: Mayor Gosey

Abstained: Council Member Sanders

Mayor Pro Tem asked for the City Attorney's opinion. The City Attorney Warren Spencer advised the City Council that the council could take a vote to decide if the Mayor should be allowed to preside over the meeting.

Council Member Thomas made a motion to appoint Council Member Sami as the chair, Council Member Joubert seconded, which *passed* as follows:

Ayes: Council Members: Dalcour, Thomas, Joubert, Sami

Nays: Mayor Pro Tem Masimini

Abstained: Mayor Gosey and Council Member Sanders

Council Member Sami mentioned the two agenda's for the 12-09-10 Special Council Meeting. He asked the city attorney which agenda the meeting would adhere too.

Warren Spencer, City Attorney stated that "the agenda that was requested in writing by he three council members was requested in accordance to the charter, and was requested at approximately 3:45 P.M. Monday afternoon. The second agenda that was posted sometime after that. The charter requires that if a special meeting is called it can be called by the signature of three council members or upon the written request of the mayor."

I do not know if there is supporting documentation, a written request for the mayor's agenda. If that written request is absent then the agenda filed by the three council members would take precedence, if both agenda's were properly submitted then the agenda, submitted by the three council members would be first in time and would be handled first.

Council Member Sami asked if the first agenda was signed and submitted.

The City Attorney, Warren Spencer stated that the written notice that was delivered to the city manager and the city secretary with the agenda attached to it, was posted out by the window. He believes that the city manager or the city secretary will have the signed

version of this agenda. The city attorney goes on to say that he knows that the agenda that followed that one took place sometime after that, and it was one that was proposed by the mayor after seeing the one that was proposed by the three council members. Absent a written request for the second agenda and time. That agenda will not be in compliance.

Mayor Gosey stated that he has never heard that the mayor has to make a written request, and to whom?

City Attorney recited Section 3.08 of the city charter. Mayor Gosey stated that by him giving the request of what he wanted on the agenda that should serve as his written request. Mayor Pro Tem Masimini states that the only thing that is an issue is that the city attorney wrote the agenda which is not what he is suppose to be doing in the first place. As long as the agenda is there and it is not within the 72 hours of posting, you can add to that agenda. This agenda was posted within the 72 hours and he is surprised that the attorney is not saying that.

Mayor Pro Tem Masimini was surprised that the city attorney typed the agenda for the council members. Mayor Gosey also states that he is surprised at a lot of things that the city attorney is doing tonight. Mayor Gosey stated that he does not feel that he did anything wrong asking the city secretary to put additional items on the agenda. The items that were placed on the agenda did not take anything away from what was already posted.

Council Member Thomas advised the council to follow the opinion of the city attorney. She further stated that this was a process and the three council members took the time to follow the process. They submitted their agenda first and they should cover their agenda first. Mayor Pro Tem stated that the process is that the information is given to the city secretary. We have never had a city attorney type an agenda for council members. And, the agenda not go through the city secretary office. The city secretary is the keeper and holder of our records and is the individual responsible for letting the council members know when there is a meeting called, including calling all the council members to see if they would like to add anything to the agenda.

Mayor Pro Tem Masimini states the lawyer not acknowledging this fact is a problem. The lawyer typing an agenda is a problem. With that being said, the fact that this agenda was delivered to the city secretary already typed is a problem. The process has remained, the lawyer not acknowledging this fact is the problem.

Mayor Gosey agreed with Mayor Pro Tem Masimini's statement. He mentioned that we just had a council meeting Tuesday 12-07-10, and now we are having a special meeting Thursday 12-09-10 which was called late in the afternoon. The whole process is very alarming. Mayor Gosey recommends that the agenda that lists all the council members concerns be considered.

Council Member Thomas made a motion to accept the agenda that was submitted by Council Members Dalcour, Thomas, and Joubert, seconded by Council Member Dalcour which *passed* as follows:

Ayes: Council Members: Dalcour, Thomas, Joubert, and Sami

Nays: Mayor Gosey, and Mayor Pro Tem Masimini

Abstained: Council Member Sanders

Council Member Sami stated that he wanted to give Mayor Gosey an opportunity to speak first. Council Member Joubert stated that the agenda item needed to be read first. Council Member Sami was aware that the mayor could possibly want to call a closed session on this item.

## **Deliberation Agenda:**

1. Discuss and consider possible action, up to and including suspension or removal from office as authorized by the city charter and code of ethics, regarding allegations of conduct by James Gosey that violate the city's code of ethics and charter; providing the opportunity for a hearing for Mayor Gosey in compliance with the city charter.

**Mayor Gosey stated that he would like to discuss this item in closed session. Council Member Joubert questioned whether a vote needed to be taken regarding the mayor's request, because he was not staff. Council Member Sami stated that the word "deliberation" does mean in open session, he referred to the city attorney for his opinion.**

**Warren Spencer, City Attorney stated that under the open meetings act certain things may be moved into executive session. But these are discretionary and they are not mandatory with regard to personnel, as with all matters there is an attorney general opinion, one point that states that although a employee or an officer has the right to bring a discussion out of the executive session into public session there is no right to require it to be forced into an executive session.**

**Upon the request of the employee that would mean that, as it stands in place on the deliberation agenda and Mayor Gosey individually would not have the ability to move it in the executive session. If the council at large chooses to move it into the executive session; once again that will be the choice of the council.**

**Mayor Pro Tem Masimini made a motion to discuss deliberation item #1 in executive session, seconded by Mayor Gosey which *did not pass* as follows:**

**Ayes: Mayor Gosey, and Mayor Pro Tem Masimini**

**Nays: Council Members: Dalcour, Thomas, Joubert, and Sami**

**Abstained: Council Member Sanders**

**Council Member Sami stated that he would prefer to hear from Mayor Gosey first. Mayor Gosey stated that he is very concerned about the actions of the city attorney presently. The reason he advised to talk about this issue behind closed doors is not because of what he has done. As you all will see, where we are going with this discussion there will be issues brought up about others. If he was in there shoes he would not want it to be brought out in public.**

**Mayor Gosey stated that he has served his city well, and he is proud of his performance as mayor. He would like to echo the fact that we have two council members that have made it very clear that they would love to run for mayor. He believes that this situation is to discredit him, and help them become elected as Mayor.**

**Discussions ensued with regard to the allegations filed against Mayor Gosey. Council Member Thomas stated that the issues at hand are; addressing the unethical conduct of Mayor James Gosey. The situation was brought to her attention by the city manager during a conversation in the city manager's office on Veterans Day. The conversation entailed Mayor Gosey telling Mr. Damian Dalcour that if he did not vote for keeping the city secretary. Mayor Gosey would have the city secretary and another employee that has since resigned file sexual harassment charges against Damian Dalcour.**

**Once she was told this information Council Member Thomas got the city attorney on the phone immediately. I am a firm believer that when somebody has done something wrong or someone tells you when someone has done something wrong, if you don't report it you're just as guilty. At that time she had the city attorney to check out what it was that they needed to do to address the issues. Council Member Thomas feels she has done her**

job as a council member and a citizen.

Mayor Gosey stated that he feels that the city manager presented the story to Council Member Thomas in the wrong manner. Mayor Gosey gave a comparison where the city manager had gotten his facts incorrect with regard to Council Member Thomas. Council Member Sami asked Mayor Gosey to adhere to the agenda as much as possible. Council Member Sami cautioned the mayor about bringing up other issues. Mayor Gosey stated that it was an out right lie, accusing him of encouraging the city secretary to file charges against Council Member Dalcour.

Based on what the mayor knows about Council Member Dalcour's history a lot of issues are going to come up. Mayor Gosey cautioned not to go there. Mayor Gosey felt that a member of the audience was threatening him. He asked for an officer's assistance because of an incident where a gun was brought to the city council meeting. A discussion ensued between Mayor Gosey and Council Member Dalcour's father. Mayor Gosey stated that he felt Mr. Dalcour Sr. could possibly have a weapon. Mayor Pro Tem Masimini asked Council Member Sami, the Chair to control the audience. Discussion ensued between the both of them. Council Member Sami suggested that the Council stay on point and conduct the meeting in an orderly fashion. Mayor Gosey reiterated that in no way could he control the actions of the city secretary.

The Mayor Pro Tem stated that this is ludicrous and why is the lawyer allowing this? If that is the case all they need to do is write up an affidavit. Mr. Ipaye needs to sign it because that is what Mrs. Thomas has stated on the record that he (city manager) told her. The city attorney is allowing in-admissible evidence into the meeting which is second hand information; and into this hearing this is incredibly not done.

The city manager stated that he has had a conversation with every one of these council members about how to move the city forward and many issues are discussed in his office. Regarding the discussion between Mayor Gosey and Council Member Dalcour the city manager states that he did not say anything about what was said. However, that does not mean he cannot hear. The city manager stated that there have been many things done wrong. He said that he overheard Mayor Gosey tell Council Member Dalcour that if he did not vote for the city secretary, he would have her file sexual harassment charges against him.

The city manager stated that he told Mayor Gosey that he could not go around bullying other people. Mayor Pro Tem Masimini asked the city manager for his statement in the form of an affidavit. The city manager concurred. City Manager stated that we should not use the position that we have to suppress others. Mayor Pro Tem Masimini stated that the city attorney included information on the agenda that is not from our charter. The words "remove from office" are not written or included in our charter, per section 3.10 "forfeiture of office;" with regard to the way deliberation agenda item #1 was written. The city attorney, states that under the city charter, section 3.10 sub-section (2) removal of office can be included. Mayor Pro Tem Masimini states that this (hearing) is very different from a recall election order

Mayor Gosey stated that his comment to Mr. Dalcour was not trying to control anyone, he had already voted for the city secretary. He was trying to avoid Council Member Dalcour getting into more mess than he has actually seen him in. Mayor Gosey stated situations have been documented as it pertains to sexual harassment and he is not making things up. In the same meeting it was also stated that if one person would drop her charges/complaints this individual has against Council Member Dalcour currently, then he would be willing to come up with objectives and goals for the city secretary, opposed to trying to terminate her. Mayor Gosey states that he tried to facilitate that request but the individual chose to move forward with the complaint. Mayor Gosey stated that he has not tried to control Mr. Dalcour.

**Council Member Joubert stated that in Corpus Christi himself, Mayor Gosey, Council Member Sami, and Mayor Pro Tem Masimini were present when Mayor Gosey said that if Council Member Dalcour were to change his vote. The city secretary will file sexual harassment charges against him. At that point Council Member Joubert called Council Member Dalcour and told him what the mayor had said. Mr. Dalcour stated to Council Member Joubert that there was no truth to what was stated.**

**Later on that week Council Member Joubert asked the city secretary if the statement about her filing sexual harassment charges on Council Member Dalcour were true. Council Member Joubert recalls the city secretary saying she did not know anything about this. And that Mr. Dalcour had not ever done anything that would make her file sexual harassment charges against him.**

**Mayor Pro Tem Masimini states what he actually remembers from that conversation for the record, (and he is prepared to sign an affidavit) is Mayor Gosey stating that because of Mr. Dalcour's history this is not somewhere we want to go. That is what Mayor Pro Tem Masimini remembers and he also remembers Council Member Joubert saying that if we get his girl Venus back; then we could work out a deal. This is what the Mayor Pro Tem Masimini remembered about that conversation. That was the conversation that was being had. This was the dialog before they all went to dinner.**

**The city secretary asked to speak. She wanted to say a few things about this whole situation from day one being given the opportunity to work in the city secretary's office has been a challenge. One week prior to the recall petitions. The petitions were thrown into her lap. She had to adhere to what the acting city manager told her to do. Council Member Joubert was very angry with the way the recall petition went. He stated how he felt about her. He told her that he hated her, and never liked her. And, other things of that nature.**

**From that point on its been accusations after accusations. Council Member Dalcour has over stepped the line. She did what any women would do, document the situation. The city secretary stated that Mayor Gosey did not entice her to file sexual harassment charges against Council Member Dalcour, and that is the truth. She does not have any grievances against any of the council members. Some of them have their own agenda. The city secretary states she has a small area to operate from. She goes on to say; the council asks for what they want on the agenda and that is what she does. This is going into a totally different realm of things. Some members of the council are picking whose girl is whose. The city secretary stated that she was no one's girl. She has been married for 20 years.**

**The Mayor Pro Tem Masimini asked the chair about what was stated in the meeting that evening in Corpus Christi. Council Member Sami stated that at some point in the course of the night there was a conversation on how Mr. Dalcour would vote. Council Member Sami stated that at some point in the evening another comment was made; stating in terms of not worrying about how Mr. Dalcour votes. At that point there was some language thrown out that would give him the impression that Mrs. Edwards could possibly consider filing harassment charges. Council Member Sami's take at that point was that he had some concern, not because they as council members discuss these kinds of issues often. That did not surprise him. What did surprise Council Member Sami is when he approached the city secretary about the situation and there was a surprised response from her about the statement. This is what Council Member Sami recalls.**

**Mayor Pro Tem Masimini asks Council Member Sami to please restate whether Venus Wehle's name come up in the conversation that afternoon. Mayor Pro Tem Masimini asks Council Member Sami did he, or did he not hear Council Member Joubert say if we bring Venus Wehle back. He would leave the city secretary alone. Mayor Pro Tem Masimini asked Council Member Sami did you or did you not hear that? Yes or No? Council Member Sami restated that he will say this. I am aware that Council Member Joubert has made that comment. Mayor Pro Tem Masimini asked Council Member Sami why he**

stated he was aware of the comment. Because that makes it seem as though he heard it from someone else, and he was not there to hear it for himself.

Council Member Sami stated that there were several things said that afternoon. Ms. Wehle's name did come up in the discussion between himself, Council Member Joubert, Mayor Gosey and Mayor Pro Tem Masimini with regards to her possibly getting her job back. Council Member Sami stated, we heard what you said, and you have made that quite clear. Council Member Sami stated that he would like to move on now.

Council Member Sanders asked to be heard. He greeted the audience. He thanked the audience and stated that he has enjoyed his stay, but tonight is his last night. He cannot stand the bickering. He cannot stand the infighting. And, he cannot stand to be in mess. Council Member Sanders quoted a bible verse, and stated that he is washing his hands of this, he can only stand so much. He will pray for all of us, and he hopes that we will pray for him. This is all that he can stand. This is his last night. God Bless You.

Mayor Gosey stated that the whole conversation started when Council Member Joubert came to him and said, do you know that Council Member Thomas has gotten her votes to terminate the city secretary? Council Member Thomas interjected denying the allegations. She stated that she went to her room and did not stay out late with them. Mayor stated that he was told by Council Member Joubert that Council Member Thomas was gathering votes. That is how the whole conversation was started.

Council Member Thomas asks the council to please stay on the topic of Mayor Gosey's unethical behavior. Mayor Pro Tem Masimini states willingly or unwillingly; Council Member Joubert introduced the conversation. That is why Mayor Gosey responded. Mayor Pro Tem Masimini goes on to say that if there were votes being taken to terminate the city secretary that was a violation of the open meetings act. Council Member Thomas disagreed.

Mayor Gosey made a final statement. This situation has to be tied to Council Member Thomas wanting to be mayor that bad. He could not believe that Council Member Thomas had recommended four months suspension, for third party allegations. The council did not suspend anyone for four months even when they have done something wrong in terms of taking money from the city. Mayor Gosey told Council Member Thomas if she wants to be mayor that bad she should run for office. The other concern that Mayor Gosey has is when someone made a complaint against the city secretary. Council Member Thomas placed it on the agenda. The city secretary has filed a complaint against Council Member Dalcour. However, it is not on the agenda. I know this council can do what they want to do. But it does not make it right for. Consequently, Council Member Joubert was in Corpus Christi telling individuals that he was the future mayor for the City of Forest Hill.

Mayor Pro Tem Masimini cautions the council to realize that they are going to vote on something without evidence, and no affidavits. He suggested they suspend the meeting until they have a written statement. A discussion ensued between Council Member Sami and Mayor Pro Tem Masimini. Mayor Gosey feels that this situation was orchestrated to move him out of the way to terminate the city secretary. That is a tragedy.

Council Member Sami asks Council Member Thomas why she made the motion to suspend Mayor Gosey for four months. Council Member Thomas stated that if Council Member Sami wanted three months just as she had given him. Either way did not matter to her.

Discussion ensued with regard to the length of suspension for Mayor Gosey opposed to the length of suspension for Council Member Sami. Council Member Dalcour stated to a member of the audience that she would not be hearing from him tonight.

Council Member Thomas made a motion to suspend Mayor James Gosey for four months,

**seconded by Council Member Joubert, which passed as follows:**

Ayes: Council Members: Dalcour, Thomas, Joubert, and Sami

Nays: Mayor Gosey and Mayor Pro Tem Masimini

Absent: Council Member Sanders

**Council Member Joubert asked the city manager to make sure that Mayor Gosey is escorted out of the building and his keys are taken away. Council Member Thomas added that his badge should be taken as well. Sheyi Ipaye, City Manager states that he knows Mayor Gosey will do the right thing. Council Member Thomas cautioned the city manager, stating that he should make sure that Mayor Gosey does the right thing.**

**Mayor Pro Tem Masimini informed the council that charter states in the absence of the mayor; the mayor pro tem chairs the meetings. Mayor Pro Tem Masimini read the executive session item aloud.**

**City Secretary requested to be a participant during executive session. Permission was granted by city attorney. The city attorney stated that if the city secretary wanted to be a part of executive session she could.**

**RECESS INTO EXECUTIVE SESSION** - Pursuant to Section 551.071, Texas Government Code, the Council reserves the right to convene in Executive Session(s) from time to time as deemed necessary during this meeting for any posted agenda item, to receive advice from its attorney as permitted by law.

**1. Section 551.074, Texas Government Code: Personnel Matters (a)(1) to deliberate the appointment, employment, employment evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee:**

1. Discuss and consider possible action, up to and including termination or demotion, regarding the performance of the City Secretary.

**E. Reconvene into regular session.**

Council reconvened into regular session at 9:10 P.M.

**F. Take any action necessary pursuant to executive session.**

Council Member Joubert made a motion to terminate the City Secretary, seconded by Council Member Thomas, which **did not pass** as follows:

**Ayes: Council Members: Dalcour, Thomas, and Joubert**

**Nays: Mayor Pro Tem Masimini, and Council Member Sami**

**Absent: Council Member Sanders**

**Mayor Pro Tem Masimini stated that the motion carried by a vote of 3 to 2. However, the charter states that all motions passed must be by a majority (4) votes. Mayor Pro Tem Masimini corrected his statement, and confirmed that the motion *did not carry* by a vote of 3 to 2.**

**G. Adjournment**

With no further business to discuss the Council adjourned at 9:13 P.M.

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Grace Edwards, City Secretary

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Dulani Masimini, Mayor Pro Tem