



City of Gulfport Florida
Special Council Meeting
Tuesday, May 22, 2007

City Hall

9:00 a.m.

Minutes

The meeting was called to order by Mayor Michael J. Yakes.

Roll Call: Present were Councilmembers Robert E. "Bob" Worthington and Michele King, Vice Mayor John E. "Ted" Phillips, Mayor Michael J. Yakes, City Manager Thomas E. Brobeil and City Clerk Louise M. Spence. City Attorney Timothy P. Driscoll was absent. Councilmember Mary Stull asked to be excused.

1. Discussion of the City Clerk.

Mayor Yakes stated that the purpose of this meeting is to discuss the City Clerk as a result of the last Council meeting's Any Other Business agenda item. An issue and concern was voiced from Vice Mayor Ted Phillips as to the competence and concern of the City Clerk. This item is for Council to make their decision and give direction under these issues and speak of the concerns that they may have involving this very important position with the City of Gulfport. This session is for Council to make their decision. The Council does have three Charter employees: The City Manager, The City Attorney (whom he mentioned was absent and was notified of this meeting), and the The City Clerk's position. These positions serve at the will and the majority vote of the City Council.

Mayor Yakes stated that due to the lateness of the last Council meeting, it was not an ideal opportunity to talk of something of this seriousness. He stated that he had spoken with City Clerk Spence prior to this meeting and asked her to make some notes. He also stated that he had advised Ms. Spence to take some time off, if needed. Ms. Spence did not take any time off.

City Clerk Spence made the following statement regarding the statements brought up by Vice Mayor Phillips at the May 15, 2006 Council meeting.

"Vice Mayor Phillips spoke about a letter from the Governor, which he believed that I had misplaced. The letter was addressed to Vice Mayor Phillips and the envelope was unopened and put into his mailbox. Neither I, nor employees in the Clerk's Department, actually saw the original letter. I have no idea what happened to the letter but, as I stated, I never saw the letter nor received a copy for the file. When he came in to talk to me about it, I went through

the recycled paper in my office to show him that the letter had not been put in there. I offered to call the Governor's office and ask for a copy of the letter to be faxed to us but he said he did not think it should be done at that time. Again, there was nothing else that I could do since I never did have possession of the letter. I do not know anything else that can be done about this.

My suggestion to alleviate any such problems in the future is that when mail is received for Councilmembers, the City Clerk's Department will open the mail and make a photocopy for the file prior placing it in their mailbox. Please let me know if you agree with this suggestion.

Vice Mayor Phillips also spoke about not receiving an email for the change of the name of the hotel for a conference that he attended in March, 2006. His name did not appear as the recipient on the email. I receive copies of all emails sent to City Council and to myself (I currently have more than 8,600 in my computer). If the recipient's name is not on the email then I have no way of knowing to whom it is addressed. Mr. Phillips and I talked about this last year and I thought that the issue was resolved but apparently he did not think it was.

Councilmember Worthington spoke about his concerns that the Assistant Deputy Clerk (part time) had not received any training for certification. The training for certification requires three years of attending conferences. There have been budget suggestions by some Councilmembers and the City Manager that the part time position be eliminated so it would be useless to spend budget funds for conference attendance at this time. The next conference is scheduled for October, 2007. The Assistant Deputy Clerk did attend a Records Training Conference for two days in Safety Harbor in April 2007.

I realize that everyone does not know all the duties of this position and the department, but I can assure you that I do the job well and stay busy all day, every day. I am reliable and dependable and in many ways I "go the extra mile" to serve City Council.

I am in my 14th year of working for the City of Gulfport and entering the 10th year of serving as the City Clerk. Prior to my employment here I had worked for 10 years in other municipalities which gives a total of 24 of years of working for municipal government. I would certainly like to end my career in a positive manner. I am proposing a resignation date of January, 2008 when I will reach retirement age. I feel that this would serve as a benefit to the City if the proposed budget changes were made to combine the City Clerk's and City Attorney's positions in October. I would be available to assist with the hiring and training for the new employee during the time of the election process. If Council agrees with this proposal an agreement can be prepared and adopted.

If this is not acceptable and Council wishes make my departure date earlier, I am requesting that Council consider a severance package which has been mentioned previously by Vice Mayor Phillips."

Mayor Yakes stated that the City of Gulfport, Ms. Louise Spence and this Council and the citizens deserve a closure on this issue. This issue has been before us on three different times. He mentioned the Florida Institute of Government's study. Every year as we come before the anniversary date there has been concerns. Decisions fall within us to make them.

We will certainly put respect for the position first and deal with the work quality of what we have and no personalities shall enter into this, and respect for the senior employees that we have as Charter employees.

Vice Mayor Phillips questioned an agenda book that was left in front of him.

City Clerk Spence stated that apparently Vice Mayor Phillips had left it there after the last meeting.

Vice Mayor Phillips stated that his book was never taken home. He stated that the City Clerk's responsibility was to strip the agenda book, and put in the new agenda.

City Clerk Spence stated that this is correct.

Vice Mayor Phillips spoke about the letters from the Governor and the head of the EPA, which were discussed at the last meeting.

City Clerk Spence stated that she knew that they were discussed, but she did not actually have the letters.

Vice Mayor Phillips stated that the letters were left in his Agenda Book.

City Clerk Spence stated that the papers that were left in the book are still in her office.

Vice Mayor Phillips stated that the papers had been in his book. When he came in the next day to pull out the papers out of his agenda book, he could not find his book. He was told by the Clerk's office that he probably had taken the book home. He has never taken his book home. In the interim, the Clerk's office had made him up a new book and put the new agenda in the book. He came in the day before, walked into chambers, his chair was backed up and his other book (which he had thought was gone) turned up under his chair. This was after he had asked for a diligent search and even had the Clerk's office go through their recyclable bins. It was his understanding that in the City Clerk's attempt to transfer paperwork from one book to another, the paperwork fell out of the book. He still questions where the paperwork went. He found one of his papers in Councilmember Worthington's book. Perhaps they were put in there by mistake.

City Clerk Spence stated that we do have a copy of the letter from the Governor, which was faxed to the City Clerk's office. The two agenda books were sitting on the part-time assistant's desk. When she picked them up to put them on the bookcase, paperwork fell out. They were not attached to anything. She did not know which book they came out of, so when she picked them up she might not have put them in the book that they fell from. She does not know what else she can do about the situation now. As far as his book being on the floor, she did not put it there. She is thinking that it was probably left there from the April 17th meeting and when there was another meeting on the 19th, in order to make room for the other book, perhaps someone moved it, but she did not do that.

Vice Mayor Phillips reiterated that his point is that he still cannot find the original papers.

City Clerk Spence offered to go get the papers that had fallen out of the book that are still in her office.

Vice Mayor Phillips spoke, again, about how he had to call around and get a faxed copy of the original letter.

City Clerk Spence stated that she had offered to call and get the faxed copy for Vice Mayor Phillips, but Mr. Phillips had told her that she did not need to do that.

Ms. Spence reiterated, again, that she had never seen the original letter.

Mayor Yakes stated that there is confusion of how this occurred. As to the discussion of how this information was misplaced, he felt that there are other issues that we need to move on to.

Councilmember Worthington said that he was not the one who found the documents in his agenda book. The agenda book, which Vice Mayor Phillips refers to, he takes his home as soon as he receives it from the Clerk's office because he prefers to read it at home. After the meeting, when he returns the agenda book, he knows that when he takes it in and puts it on the City Clerk's desk or on the desk of the Assistant, that it will be stripped of the agenda contents. Therefore, the items that he wants to keep he will put in his mailbox and will not be discarded, and he can do what he needs to do to keep his documents. Perhaps it is not clear to everyone where they need to put their books or how they should be responsible for them. He does know that we have other meetings in this room and so he tries not to leave anything in this room.

Councilmember Worthington stated that this issue goes back a long way. He has been on City Council over three years. When he first came on to Council, the issue of the City Clerk came up at that time. He was new and did not add anything to the issue, because at that time he did not have any problem with the City Clerk. A year later, he saw that there was a real problem and he brought it back to City Council. It was discussed and this is the third time that the matter of the City Clerk has come up. We have some real problems in that we do not have a definite procedure for the Council and City Clerk to follow. That is why he has started to investigate rules and procedures of other city councils. He believes that everyone should have a copy of the document from Indian Rocks Beach. There are rules and procedures that City Council follows and that City Clerks follow. These procedures include those that are standard and those that are State law. One of the procedures is that when the City Clerk receives an email to any one Councilmember or is delivered a piece of US Mail or a note of any business to the City Council, that the City Clerk opens the emails, the US Mail, and reads the information. Unless it is an advertisement, etc., each Councilmember should receive a copy of the document. Also a copy is given to the City Manager and the City Attorney. It does use a lot of paper, but it puts everybody on a level playing field. Everybody knows what everybody else is doing, which is one of the problems that we have here. Everybody is doing different things and we have items that show up as Resolutions and nobody knows anything about them. Having set procedures would make it clearer of how to put things on the agenda and at that time he talked to the City Clerk and she stated that he should talk to the City Manager or the Mayor. He spoke to the City Manager and he stated that unless it was an administrative or budgetary item he is not responsible for it. Due to the

Sunshine Laws, he cannot talk to the Mayor because it would be a violation as it would be something that they are going to vote on. Therefore, there are no set rules and procedures for this Council. The current situation with the City Clerk (he had an opportunity to speak with the City Clerk) was that she was given an opportunity to take another job at the Library at her current salary that she was making to finish out her career, or she was given an opportunity to retire with a golden handshake with benefits that would carry her out to her retirement. This is something that he heard that was proposed by the Mayor or Vice Mayor Phillips, but due to the Sunshine Law, he could not go and talk to him and find out any details. When he spoke to the City Clerk, if something like the early retirement could be worked out, she would be willing to accept it. He believes that if this is something that we are going to do, it is difficult because we have five individuals who are not able to communicate with each other. Each person goes to Louise with different issues and she cannot tell other Council people what each other has said, again, it is against the Sunshine Law. If the City Clerk would like to have the early retirement that it be administrated by the City Manager, since the City Manager has negotiated with other employees and is fully knowledgeable about the retirement programs and what can be done. With the City Manager getting with the City Clerk and getting this done, the City Manager can talk to the individual Councilmembers or send them emails to apprise them of the ongoing activities.

Councilmember King stated that she thought that several weeks ago that the Mayor was going to research changes within the City Clerk's Department.

Mayor Yakes stated that he is currently involved in obtaining a lot of valuable information to provide the Council with goals and objectives and how this merge of legal services and the City Clerk's office would come together. He recognizes this as two different concerns. The concern of the current serving City Clerk is a standalone issue.

Councilmember King stated that she thought that the proposal would be brought back to Council in a couple of months when we had some information and then Council would make a decision if they were going to change the workings of that department.

Mayor Yakes stated yes. This needs to be brought forward in a timely manner. It would certainly change the positions, organization, and the budget. Those must be incorporated into the budget. As we get this together, he has obtained some professional services to help him do this – that of reviewing our charter and other necessary components of this merge. He is hoping to have this information by July.

Councilmember King stated that then she thought that this whole meeting is premature. If we are going to look at changing the department, then to hire someone into this position prior to making that decision, means that we are going to hire someone who in a couple of months is either going to be fired or demoted.

City Manager Brobeil stated that if there is a vacancy, you are not going to have someone on board before we make those decisions. We'll have somebody in an acting position. It takes at least three months to go through the process.

Councilmember King inquired as to if we change the office, is that not a charter change?

Mayor Yakes stated that he is having an attorney review that and make that legal determination for us. He stated that, as it looks now, no.

Councilmember King feels that we should take this one step at a time and go through the procedure and look at the changes that you've asked for before we are going to hire a City Clerk or an Attorney. At the same time you're looking for a City Clerk, you'll be looking for a City Attorney. She would ask Ms. Spence at this time to make the decision, and when this comes to a vote at that point, that she either retire or ask for a severance package. Only after we have an Attorney lined up.

City Manager Brobeil stated that the subject before the Council tonight is whether the Council has faith in the City Clerk to efficiently and effectively provide duties under her job description. There have been two offers made by the City Clerk. One is to voluntarily retire on January 1st, and if that is not acceptable to the City Council to resign with a severance package. If the Council decides that there is a lack of confidence in the City Clerk's abilities, then he would suggest that Council exercise one of those two alternatives. If we want the City Clerk to leave before January 1st, then his suggestion is that the City Attorney prepares a severance agreement based on what is in his contract. He believes that his contract states two or three months pay, plus accrued vacation leave. This is a decision that is independent of the Mayor's suggestion that we reorganize the office. If the City Clerk, you would have to name an acting City Clerk, you would go through the process of advertising for a new City Clerk. However, if Council wishes to wait for the Mayor's proposal to come before you, and there was not a need for additional clerical help, we would have either other employees assist or we could get a temp in.

Mayor Yakes agreed that the two decisions are independent of each other. He reiterated that the issue is much broader, larger and more, in fact, to evaluate this position. The issue of the agenda package (where it is left) is important, but it is not important in terms of a career closure. He looks at the closure and where we are at, but efficiency, quality of work, thoroughness and lost time are issues that he is concerned with. It is the managerial ability of an expanded City Clerk's office. He mentioned the Assistant Deputy Clerk and extending the training of that individual either for the Clerk or the Deputy Clerk to keep up with the changes in local government. He mentioned that Ms. Spence has opportunities through the City Clerk's Association and seminars that will keep her certification as a City Clerk. He mentioned her position as President of the Pinellas City Clerk's Association. He mentioned the CMC certification in conjunction with how the Clerk should do the job. He mentioned the Any Other Business portion of the Council meeting and that this an opportunity to bring up all concerns, whether they are good or bad and to share information. He finds that there have been concerns in the office. He finds a person that is humble and considerate of others, but in addition one needs to be able to direct and ensure that the subordinates are doing what they are supposed to be doing. Delegation is important as a good leader, but you have to be careful that you do not delegate your job. Delegating other additional responsibilities is "on the job training". When you delegate the minutes to be done by a premise-type person, that makes sense. That line of delegating the job, that is something that he has concerns about. He works with a person who has respect, great conviction, and is on the job; Ms. Spence is here. She is here when he has asked her not to be here. He does have concerns over the control and direction of the Clerk's position. You must be a good leader and in charge of the office. We need to make a decision. The merge of legal services and the Clerk's office is

not yet to be proven. We do have in place, as it stands, all of the tools and reassurances of the office moving forward. We do have a staff in place in other offices that can work with whatever direction we go. He would like us to move towards a decision as to what we can to allow this long-serving employee to continue with a future whether it be to proceed with a career, or not. He would like to allow the separation with dignity.

Vice Mayor Phillips stated that several things have been said that directly involve him. For the record, it would be best if some prior attempts on his part to work out an amicable solution to what he saw and see as a leadership problem in the City Clerk's office were made. This goes back a long way. He went against the advice of the prior City Clerk, and backed Ms. Spence to move up into the position of City Clerk of Gulfport because he felt that she would "grow into" the job. The prior City Clerk he referred to is Leslie DeMuth, who was our City Clerk at one time. Several years ago, he spoke to City Clerk Spence about getting her a \$40,000 - \$50,000 packet and a job in the Library until she decided to stop working. He feels that this was not a vicious attack. At the time, he believes that her husband was ill and thought that the workload would be less taxing and she could be at home. Ms. Spence's immediate reaction was that he was trying to get rid of her. He was trying to work out something with dignity for her. After that, he had many frank discussions with Ms. Spence and openly told her that when he had her appointed, he thought she would "grow into" the position, and he felt that she had not. This does tie-in with some other comments that have been made. The last major discussion that he had with Ms. Spence, he told her she should be running the office and not be letting the office run her. There was some attempt on her part after that to control the office. This seemed to quickly fade away. It should be noted that six months ago we had a similar situation and he believes that we had a six-month probationary-like period suggested by the Mayor who had called for and set up the meeting to discuss Ms. Spence's actions.

Vice Mayor Phillips touched, again, on his missing e-mail. He also mentioned Ms. Spence's use of the public computer for private issues, which he feels is a serious thing. He is requesting that the City Clerk be removed from her position with some sort of arrangement being made. He has been on the City Council for 16 years, and over the past five years this topic has come up every year, sometimes twice a year. A topic coming up so frequently does indicate a problem. He mentioned the Beeman, Florida Institute of Government's report, which brought about some shocking results. In that study, her peers and fellow supervisory-level employees were interviewed and asked about her work ethic and work performance. All of them, with the exception of one (her immediate subordinate who she controlled) were dissatisfied and stated that Ms. Spence did not provide an acceptable level of service and as a management team member. On October 10, 2006, it was discussed that the re-evaluation be done in April, 2007. April has come and gone and there was not mention of a re-evaluation, so he brought the issue up again. The feelings of the people in this establishment have not changed. They feel that the response is not adequate. He sees Ms. Spence as a very honorable, nice lady. His concern is that of her performance. Ms. Spence has been in the office for 14 years. When he asked for a copy of an easement, Ms. Spence couldn't find it. She handed it over to the Deputy Clerk Donna Boyd. He then waited a couple more days and then he acquired with the Assistant about a file with the easements in it. The Assistant found it for him in the file cabinet. He feels that someone who has been in the office as long as Ms. Spence has should have known where the file was. To him, that is inefficiency and it is

not fair to the taxpayers of Gulfport to pay for inefficiency. If the truth is brutal, then so be it.

Mayor Yakes stated that emails become public record. He has received emails from individuals who spoke of Ms. Spence with respect. The bottom line, is that Council has a job to do. The early benefit package is something that does come up with additional cost.

City Manager Brobeil stated that the City Attorney would sit down with the City Clerk and try to negotiate a severance agreement, since she does not have a contract. We could also vote to dismiss her without any options. Basically, if an immediate dismissal is decided then he suggested giving her the same terms and conditions that are in his contract. It is customary in a separation agreement that Ms. Spence waives any and or all future claims against the City. That has some advantages to it. If it were the City Clerk's pleasure to submit her resignation on December 31, 2007, he would vote on accepting that resignation today. There are advantages and disadvantages to all of the methods.

Councilmember King stated that she respects everybody on Council, but she has to bring a few things out. Mr. Phillips' incident about the incorrect address for the hotel came up the last time we discussed Ms. Spence. That doesn't have validity this time, since Ms. Spence already has been on probation because of that issue. The other one with Karen McCurdy is that if it happened when Karen had been here a couple of months, then that is an old issue, as Ms. McCurdy has been here a couple of years. Except for the book part of this, she is looking at issue that have already been previously discussed and remedied in some fashion. It doesn't seem fair that the same issues are brought up again and again. She agrees with Councilmember Worthington in looking at the way that other cities do things is not a bad idea. If City Clerk Spence would like to give her resignation effective January 1, 2008, that would be acceptable to her. She inquired as to if Ms. Spence had to stay until a replacement was found.

City Manager Brobeil stated no. They would name an acting Clerk. There is someone on staff that does have the certification and credentials.

Councilmember King stated that she feels that this would not be a benefit to the City. In six months, we can decide if we want to change the department and we can actually pursue another City Clerk without having a vacated a seat.

City Manager Brobeil stated that a motion could be made to accept her resignation effective at close of business December 31, 2007. He asked Ms. Spence if this would be acceptable.

City Clerk Spence said possibly, yes.

Mayor Yakes stated that we do not want to make an error that would affect any entitlement of benefits. The decision needs to be definitive.

City Clerk Spence stated her concern of the stressful action going on between now and the end of the year. She stated that it is affecting her health and had been highly stressful for her. It seems like once someone gets against her, they are against her no matter what she does. As far as her work doing the agendas and elections, there have been no issues about that,

which she feels is an important part of the job. She would like these issues closed and to work in a friendly environment until the end of the year. But if she cannot, then she can't.

City Manager Brobeil suggested that Ms. Spence's offer of resigning effective January 1, 2008, should be voted on.

Councilmember King made a motion to accept City Clerk Spence's resignation effective January 1, 2008 and was seconded by Councilmember Worthington.

Councilmember Worthington stated that it is a difficult situation as the City Clerk has five bosses with different levels of contact with the City Clerk. Some Councilmembers deal with the Clerk's office on a more frequent basis. Each Councilmember has their own thoughts of what a City Clerk should be. This is a Charter issue. What he would like to look at in the future, is to let the residents of Gulfport vote as to if they want a new type of City Clerk's office, and the make it so that the City Manager be in charge of the administrative aspects of the City Clerk's office. The City Council would have the charge of the council and agendas, but with items such as this, the City Manager would handle it. That way, the City Manager, who is allowed to talk to all Councilmembers, can keep all of them up to date. It is not pleasant to say these things about Ms. Spence, as he feels that she is a wonderful person and we all like her.

City Manager Brobeil commented that we need to be careful about Councilmember Worthington's comments about his involvement with the City Clerk's office. He believes that there should be a separation of powers between the City Clerk's office and the City Manager's office. The last Charter change took away any administrative powers that he had over the City Clerk's office. There have been times when it has been an issue. He has no desire to take over the City Clerk's office, but he would have some involvement in the Clerk's office when it comes to time sheets, expenditures, etc. This would have to be voted on by the residents of Gulfport. It is not something that can be done by Ordinance or Resolution. With regard to the Mayor, he is getting some legal advice as to whether or not; it doesn't say in the Charter that they have to be separate individuals. He stated that the City Clerk/City Attorney could be the same person, with Deputies to do the routine business. He would like to have the authority to look into and make some decisions regarding financial and personnel matters. The changes to the City Clerk's office are not what we are voting on this evening.

City Clerk Spence stated that several years ago there had been problems mentioned. These problems were not discussed with her. The first she heard of the concerns was after the USF/Beeman study was done. She heard of the problems in a public meeting. She understands that he spoke with departmental employees and Directors, many whom have only been here a couple of months at the time. She will say now what she said then, if there's problem, talk to here about it and it can be discussed on a regular level.

VOTE:

VICE MAYOR PHILLIPS
COUNCILMEMBER KING

YES
YES

COUNCILMEMBER WORTHINGTON	YES
MAYOR YAKES	YES

2. Adjournment.

A motion was made by Vice Mayor Phillips and seconded by Councilmember Worthington.

UNANIMOUSLY APPROVE BY ACCLAMATION.

Date Approved

Michael J. Yakes, Mayor

Louise M. Spence, City Clerk