

City of Conrad
Interim Mayor
Nathan Hunsucker



413 S. Main St.
Conrad, MT 59425
406-271-3623

City Council
David Cates
Amber Schoenrock
Nathan Hunsucker
Scott Mycke

**MINUTES OF A SPECIAL MEETING OF THE CITY COUNCIL
OF THE CITY OF CONRAD, COUNTY OF PONDERA, STATE OF MONTANA
HELD AT TOWN HALL ON NOVEMBER 17, 2023**

The City Council of the City of Conrad, County of Pondera, State of Montana, met in a special session at the Town Hall on November 17, 2023 at 10:30 a.m.

Present: Mayor Jamie Miller; Aldermen Nathan Hunsucker, Alderman David Cates, Alderman Amber Schoenrock, Finance Officer Joani Mink and City Attorney Daniel Jones, and Chief of Police Ernie Padilla

The meeting was called to order by Mayor Miller at 10:30 a.m.

Absent: Alderman Scott Mycke
Guests present: 0

Executive Session

Mayor Miller opened the meeting by stating that the employee's privacy rights outweigh the public's right to know and moved the meeting into an executive session.

Discussion/Action: Removal of Mayor Miller from office for open neglect or refusal to discharge duties.

Daniel Jones, the City Attorney told those present that the findings in the meeting were entirely confidential. Chief Padilla had not waived his privacy rights. Daniel said that the findings in the meeting were generally going to be entirely confidential unless the Chief waived his privacy rights, which he has not done thus far.

Mayor Miller spoke next and said that she completely disagreed with her characterization in the investigation report. She also stated that she was told by the council and the city attorney that they would talk to her about this and other problems directly. She further stated that no one came to her and talked to her about any of these things. Mayor Miller stated that she would not resign, and that she would stay in the show. She also said that she had been elected as a department head by most of the people of Conrad, and that she was staying put in her role as Mayor. Miller then asked the council to consider how they want this department to run. Mayor Miller stated, as point one, that council should help her move forward in creating a better line of communication, and that they develop a framework for organization. She said she was aware of potential retaliation on both sides depending on how things moved forward, but that she couldn't go stepping on eggshells. In her second point, Mayor Miller suggested turning to MMIA for guidance and resources. She said they may have suggestions on how administrative offices can run adjacent but separate to other department heads. She also brought up that there was a list a mile long of issues to address including Blue Sky Villa and the water shares request. Miller said they must be able to work together moving forward in order to attend to city

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business. Mayor Miller repeated that she wanted a framework created that protects both Mayor and Chief. The mayor's third point was that in her opinion the network/tech system in City Hall has been working substandard for local government. Mayor Miller said she didn't want to access the whole server just by plugging the ethernet into her computer. She also felt this was wrong on behalf of employee privacy rights. Mayor Miller asked that this problem be addressed with the inclusion of policy and procedures. She also asked Council to help her solve these problems together not just her unilaterally. She said other cities' departments run on separate servers with procedures. She emphasized she never meant to access the server with a villainous agenda. The mayor again asked Council to address this issue and tell her how to make this work. Mayor Miller asked council to investigate a system of separating the IT system into separate systems for the city office and police with the addition of policy and procedures that meet government standards. Mayor Miller said, as a head administrator, she has never been a bond villain and has never used her administrative access intentionally wrong.

The mayor turned the floor over to the Council. Alderman Hunsucker spoke first and responded to Miller's request for separating departments. He stated that he tried to be the middleman between Miller and Padilla, and it didn't work. He also said working that way wasn't an option, and he didn't think it was in the best interest of the city. Mayor Miller repeated her statement from before in that they needed counsel from MMIA on how to proceed. Alderman Hunsucker spoke again saying he was having a very hard time with trust. Mayor Miller agreed, and she said she knew they didn't trust her and that she didn't trust them either. She also said that they couldn't move forward unless they established trust. She said that somehow, they were going to have to figure out how to fix the trust issue going forward, because she felt trust was the foundation of everything they do in the city.

Alderman Hunsucker said that based on the conclusion of the investigation, and the things he had confronted the mayor on, he thought her responses to be outright lies. Mayor Miller asked Alderman Hunsucker what he was referring to. She went on to say in her opinion, the investigator was against her from the beginning. Mayor Miller also said she disagreed with the conclusion of the report. Mayor Miller felt that the investigator had formed an opinion on the matter prior to speaking with her. Miller also said that when she had asked for the global admin access there were no problems. Mayor Miller denied the accusation that she was worried about someone being on the computer at the time, and that she had been given instructions on checking certain settings in the system. Miller said she was never asked about that specifically. Mayor Miller also denied making changes to Chief Padilla's privileges. DIS tech's email and notes stated that the mayor would not allow Padilla's privileges to be reinstated without her permission. According to Mayor Miller, a DIS tech had set up a new global access and did not give it to her. Mayor Miller again stated that she did not have global access at that point and said she knew the report was slanted. Alderman Hunsucker said he felt that the mayor had been reading his emails. The mayor denied the accusation, and swore it was not true. He asked if she had ever linked them together. The mayor said she didn't even know how to. Alderman Nathan said that aside from DIS, the mayor was

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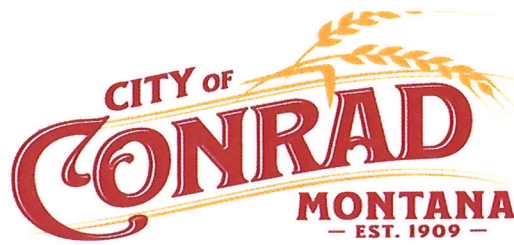
the only one with access to global admin at that time. He said he had no choice but to believe she had used her access to read his emails. She offered to pack up her computer and have it sent in to DIS for examination. Afterwards, the Mayor asked council at the end of the day, with this investigation, what does this do?

The city attorney put the focus of the discussion back on the legal issue at hand. He stated that the conclusion of the investigation established that the mayor retaliated based on the FLSA claim. Mayor Miller said she had the right to disagree with both Daniel Jones' and Amy Christianson's opinions. City Attorney Jones then asked the mayor how many legal opinions she was going to ignore. He also said that by continually ignoring legal counsel, she puts the city at risk of lawsuits. City Attorney Jones again stated that the finding in the report was that the mayor broke Federal Law. Mayor Miller asked him which law she broke, and the City Attorney read page 11 of the Fair Labor Standards Act. The mayor then asked what that meant going forward.

Alderman Hunsucker said there were three options going forward. The first was do nothing, but he felt the city would be in a lawsuit and could lose based on the risk. The second was use a go between or mediator, but he said that was ineffective and costly. The third option was to let the mayor go. Miller asked how the third option would happen. The City Attorney said if the council found that a mayor neglected or refused to discharge his or her duties, they could vote to remove him/her. City Attorney Jones then supported this by reading section 7-4-4111 (6) MCA which states "the incumbent's open neglect or refusal to discharge duties". He said the investigation report found that the mayor discriminated against an employee. City Attorney Jones told the mayor that if she refused to acknowledge the legal opinion, then subsection 6 applies. The mayor said she didn't disagree with the law, but she disagreed with the characterization. The mayor said she wanted what was best for the city, and that was why she wanted a mediator. Mayor Miller said again that she openly refused to agree with the finding that she had retaliated.

Alderman Cates asked the mayor if she felt the report was bogus. He asked if there was anything in the report she agreed with. The mayor said she did not retaliate. Miller said she was telling the truth and questioned how her actions led to retaliation. She said she had the right to manage and operate this city even if it meant going to another employee to ask for budget information. Mayor Miller asked what the most egregious thing she did. She further said she did not manipulate the budget to retaliate. Miller further said as Mayor, she reserved the right to manage and operate the city of Conrad. Miller offered her notes on the investigation to the Council, and she said she hadn't done anything malicious. Alderman Cates spoke again and said that he had always tried to back Miller and asked how they could get past issues of paranoia and trust. Alderman Cates also said he didn't see either the Chief or the Mayor backing down. He told the mayor that it wasn't all her fault, and that the Chief had made some mistakes too. He further stated that differences of opinion, like this, can be a waste of time and costly for the city and its departments. Alderman Cates also said that he had been on the council for four years,

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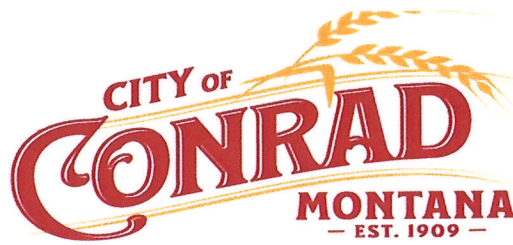
and this was the fourth thing like this that he has had to deal with. He said it hurt the city because two people can't get along. Alderman Cates also reminded the mayor that he was certain she knew about an email he sent another Council member discussing Karla's retirement. He asked Miller how it was that she had used the exact same words he'd written in that email in a discussion they had. Mayor Miller denied it, and promised she hadn't read any of the Council's emails. She offered that they take her computer and have it investigated. Mayor Miller then said to the Council that maybe there should be some transparency, and that she should ask for the freedom of information act. She then said maybe she should be allowed to look at all their emails, because there might have been something going on behind the scenes that she should have known about.

The City Attorney spoke again and reminded Miller that he had told her she couldn't change the Police Chief's job description. Daniel thought the issue had been resolved after that, but it became clear that Miller would not heed his legal advice. He said it was a concern, and he had to inform Council of the situation. The Mayor told Daniel that she felt let down, because when the FLSA opinion came down no one came to help her. Daniel said that's what this meeting is about. Mayor Miller then said she couldn't have enforced on this issue, because it was new to the city. Mayor Miller told Council that they need to learn from this and put in operating standards. She further stated that Daniel had not made it clear to her on what to do. Mayor Miller continued to say that no one helped her. She said no one tried to work with her on procedures, and the current position is not in the policy. She told council that these are new playing rules.

Alderman Hunsucker told Miller that when she had asked him two different times on what to do about overtime, he had told her both times she had to let the overtime go. Miller asked Hunsucker if he put it in writing. Alderman Hunsucker answered that she asked him the question in person, and he answered. Miller identified this as a lack of procedure and a gap in the system. She said that it needed to be identified in the policy. She further stated that as Mayor, and according to the city ordinances, overtime must be approved in advance. She asked the council if it was fair that an employee could establish his/her own overtime. Alderman Cates asked Miller if she had ever come to council on this issue. Daniel stated that he thought they had a policy on this issue. The mayor responded by asking if it had been put in writing, and further said she couldn't enforce things unless they were in writing. Alderman Cates reminded Miller that the Chief of Police had given her the police department schedule in advance. He added that sometimes adjustments need to be made, because there are things you can't establish in scheduling. The mayor then responded that everyone failed on this issue, and that she hadn't received advice from Daniel or Council. She then stated that for the sake of the town, they needed to figure this out. Miller said they need guidelines for running the police department. She also said she questioned the lack of data that supported the need for a sixth officer.

The City Attorney spoke again, and he told Mayor Miller that he thought it was a risk to the city if she stayed in her current management role. He said if she did, the city would be open to a lawsuit. Mayor

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Miller responded that she also felt the city was at risk with Daniel's guidance and Council. Miller mentioned the Finance Officer's employment contract in that it had been previously written up with a 24-month probation period and legally should have been 18 months. Daniel responded that when he was faced with facts concerning the probation time, mentioned at a conference that Amy Christians spoke at and attended by the mayor, he found that the law had changed in 2021, he agreed and acknowledged the error and fixed it. He then told Miller that she did not respect the outcome of the investigation finding, even though she had agreed to. Daniel mentioned in the previous executive session that she was asked if she would respect the outcome to this. Miller responded that she disagreed with the characterization. Miller then told council to put this to a vote. Then she said she would quit if the council put this to a vote. Hunsucker asked Miller if she was resigning. Mayor Miller then told Alderman Hunsucker no, she wouldn't quit. She asked council to make the vote.

- Motion by Alderman Nathan Hunsucker, seconded by Alderman Amber Schoenrock to remove Mayor Miller from office for openly neglecting her duties and refusal to discharge her duties.
 - Motion passed unanimously.

Discussion Continued: The mayor stated she openly disagreed with the motion and characterization. She further said it was a sad day for Conrad and that she was praying for them.

Meeting went into recess around 11:30am

Meeting resumed around 11:45 am

Alderman Hunsucker opened the discussion by asking what do they do? City Attorney, Daniel Jones said that this was a response to the grievance and asked if the officer was happy? The Chief of Police told Council and the City Attorney that this was not over. He then asked Council how this was partly his fault. Cates told the Chief it was because he would not let this go. He further said to the Chief that he had done a great job of bringing the police department back to life. Alderman Cates then told the Chief he had a vindictive attitude towards this. Alderman Cates told the Chief that he had agreed to respect the findings in this and told him he needed to stop. Cates continued in saying that this needs to stop because it is not good for the city. Alderman Cates then told the Chief he could do what he wanted but asked that he let it go. Alderman Cates also told City Chief of Police that Council wouldn't screw with him, and that they were on his side. Chief Ernie asked the council if he had ever asked for anything that would benefit him. Alderman Cates told the Chief that he had agreed in the last executive session that he would accept the decision, and he basically got what he wanted.

City Attorney Jones then addressed the Chief and asked if he was content that the conflict had been resolved? He asked the Chief if he thought he would continue to be retaliated against in the future. The Chief answered by saying he did not think this issue was resolved. He then said he wanted it on record

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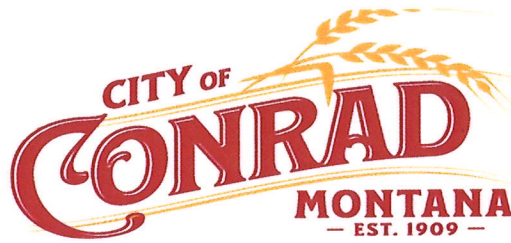
and that Council had said it was partly his fault. Alderman Hunsucker answered that he didn't agree that the Chief was at fault for this. Alderman Hunsucker then asked the Chief if he was afraid of a future complaint and investigation. The City Chief of Police responded that he was. He then said the police department hadn't received complaints of any sort until June 2023. The Chief told Council he couldn't run the department asking for so little. He said for four years in a row he had asked and been given little. He had been retaliated against, and he wanted this to stop. The Chief said he wanted the threats to stop. He also told Council that the city needed protocols in place. He also stated that the Council had the authority to stop it and didn't. Aldermen Cates told the Chief that they had tried. The Chief of police then said if it ended here and it was done, he was good here. Alderman Cates told Chief Padilla that if things didn't end here, Council would defend him. The Chief told Council that there is a need for checks and balances. He further stated that he wasn't going to abuse authority. The Chief told Council that he trusted the city attorney.

The City Attorney asked Chief Padilla if he was comfortable that the removal of the mayor ended this grievance. The Chief of Police responded yes to the City Attorney. Daniel said they couldn't stop the former Mayor from things outside the office. Alderman Hunsucker then told the Chief he was thankful for his patience. The Chief told the Council that he understood that things needed to improve, and he acted on it. He also added that he never took credit. He then said he didn't believe they had a policy problem, so long as, everyone follows the rules. The City Attorney asked Chief Padilla if he saw something missing in the current policy. Chief Padilla told Council based on the situation regarding the former finance officer that he hoped the current finance officer would get the support she needs to be successful. Alderman Schoenrock told Chief Padilla that he had her support if this goes further and if Jamie retaliates. Aldermen Cates also told the Chief that he had his support if this goes further, as well. The Chief then told Council that when a self-interest comes in front of the people it isn't a good thing, and he hopes that council learns from this. Again, he said there needs to be a check and balance system in place so there is not a repeat of this in the future.

City Attorney Jones responded to Chief's comments by saying this was a unique procedure. The Council had to make a procedure to deal with this. Alderman Schoenrock supported the City Attorney's comments by saying they had to create this to deal with this. Then she asked the City Attorney what they needed to do next. He told Chief Padilla since he had not waived his privacy rights and suggested he not do so at present, so Mayor Miller doesn't talk, that this remained a confidential matter. Chief Padilla asked if this was in the best interest of the city. City Attorney Jones answered that this was Chief Padilla's right not the city's right. The Chief then told the City Attorney and Council that he is going to withhold his rights.

Alderman Schoenrock asked the City Attorney to advise on what the next step would be for the Council. He told her that Alderman Nathan Hunsucker would be Mayor until the Council appoints a new one. He

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advised the Council that the discussion for a new mayor be on the next Agenda and discussed in the next Town Hall meeting.

With no further business to discuss, the meeting came to an end.

- Motion by Alderman Amber Schoenrock, seconded by Alderman David Cates to close the executive session.
 - Motion passed unanimously.
- Motion by Alderman Schoenrock, seconded by Alderman David Cates to adjourn meeting.
 - Motion passed unanimously.



A handwritten signature in black ink that reads "Nathan Hunsucker".

Interim Mayor Nathan Hunsucker

Attest:

A handwritten signature in black ink that appears to read "Joani Mink".

Finance Officer, Joani Mink